

STATUS OF CLAIMS

Claims 31-34 are pending.

Claims 31-34 stand rejected.

Claims 31 and 34 are amended herein.

Claims 35 and 36 are new.

REMARKS

Reconsideration of this application is respectfully requested.

Telephone Interview

The undersigned thanks the Examiner for the courtesy of a telephone interview conducted between the Examiner and the undersigned on July 15, 2008. While agreement was not reached, the Examiner indicated that the application would receive reconsideration upon entry of amendments to the claims. Accordingly, the two pending independent claims, namely claims 31 and 34, have been amended. The undersigned is appreciative of the Examiner's agreement to telephone the undersigned if it appears that minor amendments could place the application in condition for allowance.

Amendment to the Specification

By the foregoing amendment to the specification, the specification has been amended to reflect the claim of priority and benefit, already of record in the present application, as reflected in the Declaration and Filing Receipt, to U.S. Provisional Patent Application No. 60/214,076.

35 U.S.C. 103(a) Rejections

Claims 31-34 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Koppes et al. (US Patent 5,926,792) in view of Champion (U.S. Patent 5,126,936) and further in view of Parsons (U.S. Patent 6,411,939). This rejection is respectfully

traversed, for at least the reason that the combination fails to teach each of the features of at least amended independent claims 31 and 34.

Claim 31 has been amended to clarify that the calculation of net asset value of insurance units is made without reference to the performance fee, and that the performance fee is deducted by reduction of the number of units. Claim 31 has further been amended to recite that the performance fee is zero if the investment performance is negative. Disclosure support is found, for example, with reference to Fig. 2 and accompanying text.

The method recited in claim 31, as amended, resolves a problem associated with the mixing of investment and insurance accounting systems. (See paragraph [0009]). Depending on investment performance, the net asset value per insurance unit of different policyholders differs depending on the date of the policyholder's investment (Paragraph [0041]). As illustrated in Fig. 9, and described in Paragraph [0042], an exemplary advantage of the determination of the net asset value of the insurance units independent of the performance fee, in accordance with the method of claim 31, is that the net asset values of the insurance units are the same for policyholders investing at different times.

Turning to the rejection, it is clear that neither Koppes nor Champion teaches determining the net asset value of insurance units based on investment performance, independent of a performance fee, while adjusting the number of insurance units based on a performance fee, if the investment performance is positive. Clearly, neither Koppes nor Champion hints at an appreciation of the problem addressed by the method of claim 31, i.e., differing net asset values of insurance units depending on time of investment, nor at a method including the step of calculation of net asset values of insurance units without a performance fee to overcome the problem. Accordingly, even a combination of Koppes and Champion would fail to teach the limitations of amended claim 31.

For at least the foregoing reasons, the rejection of amended claim 31 should be withdrawn.

Claims 32 and 33 depend from allowable base claim 31, and are allowable at least by virtue of their dependence from an allowable base claim.

Independent Claim 34 has been amended for clarity, consistent with the method of Fig. 3 and accompanying text. New claims 35 and 36 depend from claim 34 and recite additional method limitations illustrated in Fig. 3 and accompanying text.

The rejection of claim 34 is respectfully traversed for at least the reason that neither Koppes nor Champion, either alone or in combination discloses the recited steps of:

- (a) calculating a gross net asset value of an insurance unit based on gross investment performance;
- (b) deducting an investment expense from the gross net asset value to obtain a final net asset value of the insurance unit;
- (c) calculating a cost of insurance;
- (d) calculating a number of insurance units for the cost of insurance charge;
- (e) calculating an investment gain or loss by subtracting the cost of insurance charge from gross investment earnings; and if the investment gain is positive then calculating an incurred performance fee; otherwise setting the performance fee to zero

For at least the foregoing reasons, the rejection of claim 34 should be withdrawn.

Claims 35 and 36 depend ultimately from allowable base claim 34, and should be allowed at least by reason of their dependence from an allowable base claim. In addition, neither Koppes nor Champion discloses, alone or in combination, the limitations of claims 35 and 36.

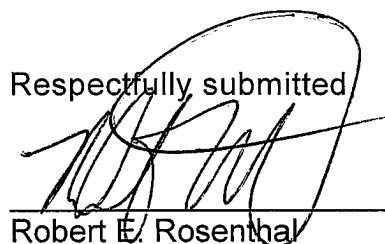
CONCLUSION

Applicant believes he has addressed all outstanding grounds raised in the outstanding Office action, and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Dated: July 28, 2008

Respectfully submitted

A handwritten signature in black ink, appearing to read 'Robert E. Rosenthal', is written over a horizontal line. The signature is stylized with a large, sweeping 'R' and 'E'.

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